

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**ELKINS DIVISION**

CAROL TODD,

Plaintiff,

v.

CIVIL ACTION NO. 2:04-cv-00040

SALLY HARDY, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

On October 22, 2004, the United States Department of Housing and Urban Development, a\ one of five named defendants in this case, filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) [Docket 29]. This action was referred to the Honorable John S. Kaull, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court **GRANT** the defendant's motion. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

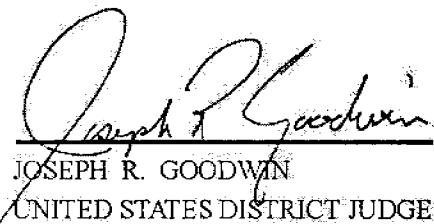
The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court accepts and incorporates herein the findings and

recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations. The court **GRANTS** the United States Department of Housing and Urban Development's motion to dismiss.

After dismissing this defendant, the court **FINDS** it lacks subject matter jurisdiction over the other defendants. Accordingly, the court also **GRANTS** the motions to dismiss filed by the West Virginia Housing Development Fund [Docket 105], Sally Hardy [Docket 108], the West Virginia Home of Your Own Initiative [Docket 110], and the North Central West Virginia Community Action Association [Docket 112].

Following dismissal of all the defendants, the court **ORDERS** that this case be **DISMISSED** from the docket and **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 5, 2005



Joseph R. Goodwin  
JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE